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10/003,077	11/02/2001	Glory F. Ceman	KCC 4776 (17,047)	5328
321	7590	08/11/2004	EXAMINER	
SENNIGER POWERS LEAVITT AND ROEDEL ONE METROPOLITAN SQUARE 16TH FLOOR ST LOUIS, MO 63102			AHMAD, NASSER	
			ART UNIT	PAPER NUMBER
			1772	

DATE MAILED: 08/11/2004

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/003,077
Filing Date: November 02, 2001
Appellant(s): CEMAN ET AL.

Kurt F. James
For Appellant

MAILED

AUG 11 2004

GROUP 1700

EXAMINER'S ANSWER

This is in response to the appeal brief filed June 1, 2004.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 25-37 (Group I) and 38-52 (Group II) do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

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(9) Prior Art of Record

5,429,630	BEAL et al.	7-1995
5,147,698	COLE	9-1992

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 25-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beal (5429630) in view of Cole (5147698).

Beal relates to a laminated structure (10) which is an absorbent article. The structure comprises a body (16) having a peripheral edge, a first side and a second opposite side, an adhesive attachment means (36) and a release paper (46) covering the adhesive. A plurality of laminated structure can be provided in a package or a container with instruction provided thereon (col. 2, lines 22-37). However, Beal fails to teach that the release paper has indicia printed thereon. Cole discloses a laminated adhesive structure, including a release paper which covers the unprotected adhesive. The outer side of the release paper is provided with indicia such as logo, decorative design, instruction, etc. to promote and assist in the use of the product. Therefore, it would have

been obvious to one having ordinary skill in the art to utilize Cole's teaching of using printed indicia on the release paper in the invention of Beal for assisting the user.

Claims 38-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beal in view of Cole.

Beal relates to a laminated structure (10) which is an absorbent article. The structure comprises a body (16) having a peripheral edge, a first side and a second opposite side, an adhesive attachment means (36) and a release paper (46) covering the adhesive. A plurality of laminated structure can be provided in a package or container with instruction provided thereon (col. 2, lines 22-37). However, Beal fails to teach that the release paper has indicia printed thereon. Cole discloses a laminate adhesive structure, including a release paper which covers the unprotected adhesive. The outer side of the release paper is provided with indicia such as logo, decorative design, instructions, etc. to promote and assist in the use of the product. Therefore, it would have been obvious to one having ordinary skill in the art to utilize Cole's teaching of using printed indicia on the release paper of Beal to promote the product in that it provides for inspiration to use the product, entertains and motivates the user to use the product, etc.

(11) Response to Argument

Appellant argues that the references of Beal and Cole fails to show or suggest a feminine care product having all the features recited in Claim 25, particularly the text

message. This is not deemed to be persuasive as brought to the appellant's attention in the Office Action of 12/1/2003 (Final Action). While Beal clearly teaches a feminine care product with the release liner and the Cole reference expressly discloses the presence of text message or indicia on the release liner as acknowledged by the appellant in the amendment filed on 09/8/2003. The message on the liner of Cole includes logo, decorative design, instruction for use, etc. (see Cole, col. 7, lines 8-11). Therefore, the combination of the references show and suggest a feminine care product with the release liner having text message printed thereon. Appellant is again informed here that the logo could provide for motivating the user, inspiring the user, or even educating the user. For example, a particular logo promotes the quality and performance of a product and would draw the attention of a user, motivate and inspire to use said product instead of the general or generic products. At the same time, the logo would educate the user in using quality product. Similarly, the presence of decorative design on the release liner would not only entertain the user, it will also provide for inspiration and motivation to the user because the decorative design is appealing and attractive to impart positive response from the user.

In response to the argument that "a logo could be or include text, but is source designator...which is positively excluded from the scope of claim 25", appellant should note that a logo can also provide for motivation, education and inspiration to the user regarding the product and its use as explained a fortiori hereinabove.

Appellant argues that the subject matter of the message in the adhesive covering is entitled to patentable weight. Appellant is again informed that the subject matter has

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been considered but is not found to be of positive limitation to the structure of the product claimed. The presence of text fails to add to the structure of the claimed feminine care product structure.

Regarding claim 38, the above grounds of explanations apply a fortiori herein. The above reasoning also apply to the presence of text message on the release covering of the product as claimed. Additionally, the presence of decorative design on the release liner would impart positive response from the user.

Appellant has also cited In re Gulack, 703 F.2d 1381 (Fed. Cir. 1983); In re Miller, 164 USPQ 46 (CCPA 1969); and In re Royka, 180 USPQ 580 (CCPA 1974) to support that the text message be given patentable weight. Appellant should note that the text has been given consideration as explained in the last Office Action of 12/1/2003. However, it has not been given any patentable weight because it does not impart any structure to the product nor provides any functional relationship to the product. This aspect has been noted in In re Gulack which teaches a functional relationship between the article band and the digits printed thereon. Appellant is informed that the instant claims on appeal is directed to a feminine care product and the text message on its release liner fails to provide any functional relationship between the product and the printed indicia.

Similarly, the cases of In re Miller and In re Royka are also directed to printed indicia and its functional relationship to the product.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Nasser Ahmad

Primary Examiner

Art Unit 1772

N. Ahmad.

August 9, 2004

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SENNIGER POWERS LEAVITT AND ROEDEL

ONE METROPOLITAN SQUARE

16TH FLOOR

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